



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Kent L. GILSON

Serial No.: 09/747,602

Filing Date: December 22, 2000

For: VIVA

Group Art Unit: To Be Assigned

Examiner: To Be Assigned

**DECLARATION OF DONALYN PRYOR IN SUPPORT
OF PETITION UNDER 37 CFR 1.53(e) TO SHOW RECEIPT OF ITEM
IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL
APPLICATION**

Commissioner for Patents
Washington, D.C. 20231

Dear Sir or Madam:

I, Donalyn Pryor, hereby declare that:

I am employed by the law firm of Morrison & Foerster, LLP, having offices at 425 Market Street, San Francisco, CA 94105 (Morrison & Foerster). Morrison & Foerster is Applicant's legal representatives in the above-captioned matter. I work assisting Stephen C. Durant, the prosecuting attorney of record in the above-captioned matter. I also work with Charmayne Wilson, another employee of Morrison & Foerster, LLP who assists Stephen C. Durant.

Prior to filing any patent application in the United States Patent and Trademark Office (PTO), it is the policy and procedure of Morrison & Foerster to print out a complete copy of the specification of a patent application, make an exact photocopy of the complete original specification, along with any drawings and other formal papers, and

file the photocopy in the center section of a tri-fold file folder marked with client identification information. The original specification, along with any drawings and other formal papers, is then placed in an Express Mail envelope the envelope is sealed, and the application is deposited with the U.S. postal service by the person named on, and signing, the Certificate of Express Mailing included with the patent application.

I consistently follow this procedure when preparing and filing United States patent applications.

I followed this procedure on December 22, 2000 when preparing and filing the above-captioned patent application. Specifically, I received the original specification, along with the drawings and other formal papers from Charmayne Wilson. I placed the original specification, along with the drawings, a return receipt post card, and transmittal letter, in an express mail envelope addressed to the Assistant Commissioner of Patents at the PTO. I then provided this envelope to Stephen C. Durant, identifying it as the above-captioned patent application.

Since filing the photocopy of the application in the center section of the tri-fold file folder, I have not removed the photocopy of the application therefrom or otherwise tampered with or added any pages to the photocopy of the application. Additionally, Charmayne Wilson and I have had primary responsibility for the tri-fold file folder from the time the application was filed. To the best of my knowledge, the tri-fold file folder has remained in the offices of Morrison & Foerster since the time the application was filed.

Also, on December 22, 2000, I prepared a new Provisional Patent Application with identical contents absent one claim. The Express Mail Receipt for this Express Mail envelope notes the weight as 2 lbs. 10 ounces.

I further declare under penalty of perjury under the laws of the United States of America that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **404332000200**. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 7, 2001

By: Donalyn Pryor
Donalyn Pryor